



**Medical Quality Assurance Commission
February 29, 2008
Business Meeting Minutes**

Medical Commission Members

Cabell Tennis, Public Member, Chair
Les Burger, MD, 2nd Vice-Chair
Frederick H. Dore, Jr., MD
Ellen Harder, PA-C
Judith Page, Public Member
Theresa Elders, Public Member
Anthony Robins, MD
Thomas Green, MD
Linda Ruiz, Public Member - Absent
Frank Hensley, Public Member

Samuel Selinger, MD, 1st Vice-Chair
Kenneth Cogen, MD
Susan Harvey, MD - Absent
Hampton Irwin, MD
Chelle Moat, MD
William Gotthold, MD - Absent
Judy Tobin, Public Member
Bruce Cullen, MD
Athalia Clower, PA-C - Absent
Anjan Sen, MD

Department of Health Staff:

Blake Maresh, Executive Director
Beverly A. Teeter, Program Manager – Absent
Joe Mihelich, Program Representative
Michael Farrell, Staff Attorney
Dani Newman, Compliance Officer
Jim McLaughlin, Staff Attorney

Maryella Jansen, Deputy ED – Absent
George Heye, MD Medical Consultant
Erin Obenland, Disciplinary Manager
Karl Hoehn, Legal Services Manager
Dave Magby, Chief Investigator

Others in Attendance

Melissa Burke-Cain, AAG
Kristina Kernan, Strategic Planning Coordinator

Kim O'Neal, AAG
Fred Garcia, Strategic Planner

BUSINESS MEETING
CALL TO ORDER

Commission Chair Cabell Tennis, JD called the meeting of Washington State Medical Quality Assurance Commission (MQAC) to order at 8:03 a.m. on February 29, 2008, at the Holiday Inn Renton at One South Grady Way, Renton WA.

1.0

REPORT OF THE CHAIR

The Chair reported that Hampton Irwin, MD, long time Commission member and former Chair, would be presented with the John H. Clarke, MD Leadership Award during the annual meeting of the Federation of State Medical Boards to be held in May 2008 in San Antonio TX. Chair Tennis expressed his joy in working with Dr. Irwin. He mentioned how relentless and devoted Dr. Irwin has been with the clear concerns for the risks involved in unregulated office-based surgery.

The Chair reported on the legislative process, which a bill has been developed and is supported by the Commission, the Washington State Medical Association, the office of the Governor, and the Department of Health. He stated when enacted, it would create a pilot project for the Commission. He mentioned this would allow the Commission to hire their own executive director who would then report to the Commission. The executive director would be able to hire the staff and help the Commission to shape the budget.

The Chair remarked on the efforts of Samuel Selinger, MD, Les Burger, MD, and Frank Hensley, Public Member on the time spent testifying on bills and working with state and local medical societies to get this bill passed through Legislature.

He reported that each member received a small portfolio of documents from the Walk in the Woods on February 28, 2008.

The Chair stated that Thomas Green, MD invited him to attend a presentation to the King County Medical Society on February 11. He stated Dr. Green presented information to the medical society on the role of the Medical Quality Assurance Commission.

He reported on a letter to the Physicians Insurance and Group Health addressing their concerns on the sanctioning guidelines that was drafted the Executive Committee.

MOTION

The Chair entertained a motion to accept the letter of response from the Executive Committee to Physicians Insurance and Group Health regarding the sanctioning Guidelines and have the letter appended in the minutes. The motion carried.

Physicians Insurance and Group Health will receive the following letter:

Gary L. Morse, JD
Physicians Insurance

Hugh L. Straley, MD
President, Group Health Permanete

Thank you for your letter of concern regarding the recent adoption of sanction guidelines by the Medical Quality Assurance Commission (MQAC). We are aware of the apparent rigidity of these guidelines and want to assure you that we do not intend to use them as inflexible rules that must be followed regardless of the circumstances. We adopted these guidelines in order to insure that all cases that come before the Medical Commission are dealt with in a fair and consistent manner. We are actively studying these guidelines to determine how well they work and what changes need to be made to improve our process of dealing with the many complaints that come before us every year.

We are particularly focusing on standard of care cases. We are in the process of expanding the list of mitigating circumstances and intend to broaden and make more flexible the range of sanctions that can be applied to cases that involve standard of care issues.

In the meantime, we continue to deal with all cases as we have in the past. Each case is considered on an individual basis and decisions are based on the combined experience and expertise of Commission members (13 physicians, 2 PA's and 6 public members). These guidelines are used as an advisory framework to document the decision elements in each case. We will use this data to help us refine and improve MQAC's sanction guidelines so the range of sanctions is appropriate for the complexity of cases. This is a high priority for the Commission and may be influenced by pending legislation that would further facilitate flexibility.

The contents of this letter were discussed and affirmed during the business meeting of MQAC on February 29, 2008.

Sincerely,

Cabell Tennis,
Chair of the Medical Quality Assurance Commission
Of Washington State

2.0 **CONSENT AGENDA**

The consent agenda contained the following items for approval:

- 2.1** Agenda for February 29, 2008
- 2.2** Minutes from the January 11, 2008, business meeting
- 2.3** Ratifications of Licenses

3.0 **COMMITTEE REPORTS**
PUBLIC POLICY COMMITTEE

3.1 **Guidelines for Self-Prescribing and Prescribing for Family Matters**

The Policy Committee made a recommendation to adopt the Guideline for Self-Treatment and Prescribing as written. The Guidelines are in concert with the American Medical Association Code of Ethics and the Washington State Medical Association's policy.

MOTION

Chair Tennis entertained a motion to adopt the guidelines on Self-Treatment and Prescribing. The motion was adopted.

3.2 **Proposed Compliance Policy Revisions MD 2003-02**

This item was deferred.

3.3 **Use of Templates for Case Reviews**

The Policy Committee reported on discussion regarding the use of template for case reviews. Les Burger, MD, 2nd Vice Chair mentioned the discussion focused content, and the process of deliver to Commission members on their respective panel. He stated there would need a cut-off date for case reviews prior to the meeting; therefore, each Commission member would have time to read summary before the meeting. The reviewing commission member would still present the case and allow other panel members to ask question before the panel makes the determination.

Dr. Burger reported there is a subcommittee on what content should be in the template. The members for this sub committee are Les Burger, MD, Rick Dore, MD, Judy Tobin, Melissa Burke-Cain, AAG, and Erin Obenland, Disciplinary Manager. This sub committee will report to the Public Policy Committee in April.

3.4 **Process toward Modification of Sanctioning Guidelines to Work of Medical**

The Policy Committee reported on the discussion regarding the process toward possible modification of the recently adopted Sanction Guidelines as they related to the medical profession.

3.5 Non-Surgical Medical Cosmetic Procedures Draft Rules Update

The Public Policy Committee reported on comments and recommendations from the latest draft rule language for physicians and physician assistants. Samuel Selinger, MD, reported on the large turnout of estheticians at the Public Policy Committee meeting regarding the draft rules on February 27. He mentioned that the public was informed prior to the topic being discussed that the rules are in the early stages of the process and the Commission would not making any decisions. He reported that the MD's and PA's rules are now separated. Dr. Selinger stated issues that need to be addressed on the next set of drafts are MD location, off-site use by PA's, and off-label injections. Dr. Selinger also stated these rules are for MDs and PAs only; however, it may affect to what other health care professionals they can delegate the procedure. He mentioned the health care professional needs to be within their professional scope of practice.

3.6 Office-Based Surgery Rules Update

The Policy Committee reported on the draft rule language on Office-Based Surgery. Hampton Irwin, MD reported that the Public Policy Committee discussed registration and certification. He mentioned that Mike Farrell, Staff Attorney would draft a new version of the rule and would be available at the next meeting. Dr. Irwin stated the draft language would have certification as the key component to of the rule on office-based surgery.

4.0 REPORTS

4.1 Finance- Les Burger, MD

Dr. Burger reported waiting on SHB1103. The committee did not meet.

4.2 Joint Operating Agreement- Frank Hensley, Public Member

Mr. Hensley reported waiting on SHB1103. The committee did not meet.

4.3 Investigation Task Group- Les Burger, MD

This item was deferred.

5.0 OTHER BUSINESS

5.1 Department of Health Strategic Plan – Fred Garcia

Fred Garcia, Strategic Planner for Health Systems Quality Assurance (HSQA), presented a PowerPoint on the HSQA strategic plan for 2007-2009. He stated that the mission statement for HSQA is to work to protect and improve the health of people in Washington State. Mr. Garcia mentioned there are five goals in this strategic plan to help improve the quality of health care deliver systems in this state. The five goals are to improve people's health, enhance patient safety, make every resource count, have an exemplary workforce, and deliver exceptional service to all patients in the state. Mr. Garcia focused his presentation on Goal 2, "Enhance Patient Safety". Mr. Garcia stated the objective to this goal is to improve patient safety through

facilities and health care professional regulatory processes. Mr. Garcia mentioned there are two strategies and three measures to this objective.

Chair Tennis had concerns that the Commission was not asked to participate in this goal making process, but it reflects the work that the Commission is doing through the measures determined by management of HSQA as a reasonable target to meet for all boards and commission in the final decisions on the use of sanctioning guidelines

5.2 Walk in the Woods Follow-up Report from Dr. Marcus

Chair Tennis reported that each member received a copy of the report. There was no discussion about the report. This report is about the mediation between the Department of Health and the Medical Quality Assurance Commission

5.3 Procedure 205 Initial Assessments and Case Disposition

Erin Obenland, Disciplinary Manager reported on the procedure and how it affects the Commission. Ms. Obenland stated the change in the procedure is more for staff to follow when the Commission has its Case Management Team phone calls and determines to close a case before investigation. The procedure identifies what codes are to be used to close the case in the licensing system.

6.0

MEMBERS REPORTS

6.1 Bruce Cullen, MD – CPEP

Dr. Cullen reported on his visit to the Center for Personalized Education for Physicians (CPEP). Dr. Cullen stated he was somewhat skeptical of the program at first; however, after going through the overview of the program and participating in some testing designed to make sure physicians are capable and skilled to practice medicine he thinks CPEP is doing it right.

7.0

STAFF MEMBERS REPORTS

7.1 Executive Director

Blake Maresh, Executive Director, gave a written report to the Commission. Mr. Maresh emphasized a few issues on his report. Mr. Maresh reported that the new computer system, the Intergraded Licensing and Regulatory Systems (ILRS), went live on February 19, 2008. He mentioned that staff had taken training over the last several months how to use the new program. Mr. Maresh mentioned there were some technical issues, but overall the program is up and running.

Mr. Maresh also reported on the progress of an expert witness umbrella contract. He stated that in the contract there for us to opt out if we believe we need to in order to find the best expert. He stated there were specific requirements when the contact went out for bid. Mr. Maresh stated that the Reviewing Commission Member (RCM) would have the ability to consult on

who is picked as an expert. Mr. Maresh mentioned there is no minimum financial commitment in this contract.

7.2 Deputy Executive Director

Maryella Jansen was unable to attend the meeting. Ms. Jansen provided a written report on the legislation that was of interest to the commission. The report was passed out to Commission members.

7.3 Assistant Attorney General

Melissa Burke-Cain, AAG asked the commission what they would like to see in her report. The Commission gave feedback to Ms. Burke-Cain. Ms. Burke-Cain has been with the Commission since January 2008.

7.4 Program Manager

Ms. Teeter was unable to attend the meeting.

7.5 Disciplinary Manager

Erin Obenland, Disciplinary Manager, reported case numbers will look different with the implementation of the ILRS system. She mentioned that there is a sign-up sheet for Case Management Team conference calls.

7.6 Medical Consultant

George Heye, Medical Consultant reported that he will reassign Drs. Cogen and Moat's cases to other Reviewing Commission Members. Dr. Heye indicated that Beverly Teeter, Program Manager is working on the recruitment process to fill the vacancies on the Commission.

8.0 ADJOURNMENT

The meeting adjourned at 10:35 a.m.

Submitted by

Joe Mihelich, Office Assistant III

Cabell Tennis, JD, Chair
Medical Quality Assurance Commission
Approved April 11, 2008